

HOUSE No. 3512

By Mr. Honan of Boston, petition of Kevin G. Honan relative to the use of traffic control signal violation monitoring system devices as a means of promoting traffic safety in the cities of the Commonwealth. Transportation.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT PERMITTING THE USE OF TRAFFIC CONTROL SIGNAL VIOLATION MONITORING SYSTEM DEVICES AS A MEANS OF PROMOTING TRAFFIC SAFETY IN THE CITIES OF THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. (a) Notwithstanding the provisions of any general or
2 special law to the contrary, any city town or political subdivision
3 may, upon the acceptance of this act, employ a traffic control signal
4 violation monitoring system and electronic speed monitoring system
5 may be both mobile and fixed along any portion of any ways within
6 its control and may promulgate local measures imposing a penalty
7 on the owner of a motor vehicle for failure by the operator thereof to
8 comply with the laws, codes, regulations, ordinances, rules and/or
9 other forms of legislation governing the traffic control signals in said
10 cities at which a traffic control signal violation monitoring system is
11 located.

12 (a) As used in this act, the following words shall, unless the con-
13 tent clearly indicates otherwise, have the following meanings:—

14 “Local measure”, shall mean the ordinances, rules and regulations
15 adopted by any city town or political subdivision, whichever is
16 applicable, establishing a schedule of fines imposed on the owner of
17 a motor vehicle for failure by the operator thereof to comply with
18 the laws, codes, regulations, ordinances, rules and/or other forms of
19 legislation governing the traffic control signals in said cities at
20 which a traffic control signal violation monitoring system is located;

21 “Motor vehicle”, shall have the meaning provided in Section 1 of
22 Chapter 90 of the General Laws;

23 “Operator”, shall have the meaning provided in Section 1 of
24 Chapter 90 of the General Laws;

25 “Owner”, shall have the meaning provided in Section 1 of
26 Chapter 90 of the General Laws;

27 “Traffic control signal violation monitoring system”, shall mean
28 an automated motor vehicle sensor device installed to work in con-
29 junction with a traffic control signal which produces two or more
30 digital photographs of each motor vehicle at the time it is used or
31 operated in a manner that is in violation of the traffic control signal
32 at which the automated monitoring system is located. The pho-
33 tographs, must, at a minimum, record the rear of the motor vehicle,
34 with at least one of the images clearly recording the motor vehicle
35 behind the stop bar immediately prior to the violation of the traffic
36 control signal, and at least one image recording the motor vehicle
37 passing through the intersection in violation of the traffic control
38 signal. Additionally, at least one of the images must clearly identify
39 the registration plate of the motor vehicle;

40 “Violation”, shall mean the failure of an operator of a motor
41 vehicle to comply with the laws, codes, regulations, ordinances,
42 rules and/or other forms of legislation governing the traffic control
43 signals or the rate of speed at which vehicle enters the intersection at
44 which a traffic control signal violation monitoring system is located.

45 (b) No traffic control signal violation monitoring system shall be
46 utilized in such a manner as to take a frontal view photograph of the
47 motor vehicle that is in violation of the traffic control signal.

48 (c) A certificate, or a facsimile thereof, based upon inspection of
49 photographs produced by a traffic control signal violation moni-
50 toring system, and sworn to or affirmed by a police officer autho-
51 rized to issue citations for violations of traffic signals at the subject
52 intersection, shall be prima facie evidence of the facts contained
53 therein. No photographs taken in conformance with this act shall be
54 discoverable in any judicial or administrative proceeding other than
55 a proceeding held pursuant to this act; and no photograph taken in
56 conformance with this act shall be admissible in any judicial or
57 administrative proceeding other than in a proceeding to adjudicate
58 liability for such violation of this act.

59 (d) For each violation pursuant to this act, the owner or owners of
60 a vehicle shall be liable for the penalty imposed by a local measure;
61 provided, however, that no owner of a vehicle shall be liable for a
62 penalty imposed pursuant to this act where the operator of such
63 vehicle has been convicted of the underlying violation pursuant to a
64 citation issued in accordance with Section 2 of Chapter 90C of the
65 General Laws, and provided, further, that the maximum penalty that
66 may be imposed pursuant this act shall be One Hundred Dollars
67 (\$100.00) for each violation.

68 (e) A penalty imposed by a local measure may, if so provided in
69 the local measure, be increased by up to 33¹/₃% if said fine remains
70 unpaid in excess of 30 days after a notice of violation has been
71 issued consistent with the procedures established in Section 20A¹/₂
72 of Chapter 90 of the General Laws.

73 (f) A penalty imposed by a local measure for a violation pursuant
74 to this act shall not be deemed a criminal conviction and shall not be
75 made part of the operating record of the person upon whom such lia-
76 bility is imposed, nor shall such imposition of a penalty be subject to
77 merit rating for insurance purposes and no surcharge points shall be
78 imposed in the provision of motor vehicle insurance coverage.

1 SECTION 2. (a) The compensation paid to the manufacturer or
2 vendor of the traffic control signal monitoring system deployed as a
3 means of promoting traffic safety as authorized herein shall not be
4 based upon the number of traffic citations issued or any portion or
5 percentage of the fine generated by such citations. The compensation
6 paid to such manufacturer or vendor of the equipment shall be based
7 upon the value of such equipment and the services provided or ren-
8 dered in support of the traffic control signal monitoring system.

9 (b) Other than for purposes of enforcement of a violation of this
10 act or for purposes of an owner defending a violation of this act, no
11 private entity or individual may obtain photographs or records taken
12 pursuant to this act.

1 SECTION 3. (a) The parking clerk designated or appointed by the
2 city shall supervise and coordinate the administration of violations
3 issued pursuant to Section 1. The parking clerk shall have the
4 authority to hire and designate such personnel as may be necessary

5 or contract for such services to implement the provisions of this
6 section.

7 (b) It shall be the duty of the parking clerk of the city employing
8 its traffic control signal violation monitoring system to cause the
9 notice of violation to the registered owner or owners of any motor
10 vehicle identified in any photographs produced by such device as
11 evidence of a violation pursuant to this act. Such notice shall contain
12 but not be limited to the following information:— a copy of the
13 aforementioned recorded images showing the vehicle in violation of
14 the traffic signal, the registration number and state of issuance of
15 said registration number of the vehicle; the date, time and intersec-
16 tion location of the violation; the specific violation charged; a
17 schedule of fines for such violation as established by the city or
18 town; instructions for the return of the notice; and text as follows:—

19 “This notice may be returned personally, by mail, or by an agent
20 authorized in writing. A hearing may be obtained upon the written
21 request of the registered owner in writing. Failure to obey this notice
22 within 30 days of issuance of this notice will result in the non-
23 renewal or suspension of the license to drive and the certificate of
24 registration of the registered owner.”

25 (c) In the case of a violation involving a motor vehicle registered
26 under the laws of the Commonwealth, such notice of violation shall
27 be mailed within 14 days of the violation, exclusive of Sundays and
28 holidays, to the address of the registered owner or owners as listed in
29 the records of the registrar of motor vehicles. In the case of any
30 motor vehicle registered under the laws of another state or country,
31 such notice of violation shall be mailed within 21 days of the viola-
32 tion, exclusive of Sundays and holidays, to the address of the regis-
33 tered owner or owners as listed in the records of the official in such
34 state or country having charge of the registration of such motor
35 vehicle. If said address is unavailable, it shall be sufficient for the
36 parking clerk to mail notice of violation to the official in such state
37 or country having charge of the registration of such motor vehicle.

38 (d) Notice of violation shall be sent by first class mail in accor-
39 dance with subsection (c) and shall include an affidavit form
40 approved by the parking clerk for the purpose of complying with
41 subsection (g). A manual or automatic record of mailing processed
42 by or on behalf of the parking clerk in the ordinary course of busi-
43 ness shall be prima facie evidence thereof, and shall be admitted as

44 evidence in any judicial or administrative proceeding, as to the facts
45 contained therein.

46 (e) Any motor vehicle owner to whom notice of violation has
47 been issued pursuant to this act may admit responsibility for such
48 violation and pay the fine provided therein. Payment shall be made
49 either personally or through a duly authorized agent, or by appearing
50 before the parking clerk during normal office hours, or by mailing
51 both payment and notice of the violation to the parking clerk. Pay-
52 ment by mail shall be made only by money order, credit card or
53 check made out to the parking clerk. Payment of the established fine
54 and any applicable penalties shall operate as a final disposition of
55 the case. Payment of the fine by one motor vehicle owner shall be
56 satisfaction of the fine as to all other motor vehicle owners of the
57 same motor vehicle for the same violation.

58 (f) Any owner to whom a notice of violation has been issued may,
59 within 30 days of the mailing of said notice by the parking clerk,
60 request a hearing to contest the liability alleged in said notice. A
61 hearing request shall be made either personally, via the internet or
62 through a duly authorized agent by appearing before the parking
63 clerk during regular business hours or by mailing a request in
64 writing to the parking clerk. Upon receipt of a hearing request, the
65 parking clerk shall forthwith schedule the matter before a person
66 hereafter referred to as a hearing officer, said hearing officer to be
67 the parking clerk of the city wherein the violation occurred or such
68 other person or persons as the parking clerk may designate. Written
69 notice of the date, time and place of said hearing shall be sent by
70 first class mail to each registered owner. Said hearing shall be
71 informal, the rules of evidence shall not apply, and the decision of
72 the hearing officer shall be final subject to judicial review as out-
73 lined by Section 14 of Chapter 30A of the General Laws. Within
74 twenty-one days of the hearing, the parking clerk or the hearing
75 officer should send by first class mail to the registered owner or
76 owners the decision of the hearing officer, including the reasons for
77 the outcome.

78 (g) Any owner to whom a notice of violation has been issued shall
79 not be liable for a violation under the provisions of this act (1) if the
80 violation was necessary to allow the passage of an emergency
81 vehicle; (2) if the violation was necessary in order to protect the
82 property or person of another; (3) if the violation was incurred while

83 participating in a funeral procession; (4) if the violation was incurred
84 during a period of time in which the motor vehicle was reported to
85 the police department of any state, city or town as having been
86 stolen and had not been recovered prior to the time the violation
87 occurred; (5) if the operator of the motor vehicle was operating the
88 motor vehicle under a rental or lease agreement and the owner of the
89 motor vehicle is a rental or leasing company and has complied with
90 the provisions of Section 20E of Chapter 90 of the General Laws;
91 (6) if the operator of the motor vehicle was convicted of the under-
92 lying violation pursuant to a citation issued in accordance with
93 Section 2 of Chapter 90C of the General Laws; or (7) if the violation
94 was necessary to comply with any other law or regulation governing
95 the operation of a motor vehicle at the intersection. An owner dis-
96 puting a violation under this section shall, within 30 days, provide
97 the parking clerk with a signed affidavit in a form approved by the
98 parking clerk, as provided for in subsection (d), stating (1) the
99 reason for disputing the violation; (2) the full legal name and address
100 of the owner of the motor vehicle; (3) the full legal name and
101 address of the operator of the motor vehicle at the time the violation
102 occurred; (4) the names and addresses of all witnesses supporting the
103 owner's defense and the specifics of their knowledge; and where
104 applicable (5) the signed statements from witnesses.

105 (h) If an owner to whom notice of violation has been issued either
106 fails to pay the fine provided for in said notice in accordance with
107 subsection (e), or fails to receive a favorable adjudication of said
108 notice from a hearing officer in accordance with subsection (f), the
109 parking clerk shall notify the registrar of motor vehicles who shall
110 place the matter on record. Upon notification to the registrar of two
111 or more notices under this act and/or Sections 20A and 20A½ of
112 Chapter 90 of the General Laws from the parking clerk of either city
113 or state authorities or agencies, the registrar shall not issue or renew
114 or may suspend such owner's license to operate a motor vehicle or
115 motor vehicle registration until after notification from the parking
116 clerk of each city, agency or authority, from whom the registrar
117 received notification, that all fines, taxes and penalties owed by such
118 owner pursuant to either this section, or arising out of the parking or
119 usage of such owner's motor vehicles, have been disposed of in
120 accordance with law. Upon such notification to the registrar, an addi-
121 tional charge of \$20 payable to the registrar but collected by the city,

122 and an additional charge of \$20 payable to and collected by the city,
123 shall be assessed against the registered owner of said motor vehicle.
124 It shall be the duty of the parking clerk to notify the registrar forth-
125 with that such case has been so disposed; provided, however, that
126 certified receipt of full and final payment from the parking clerk of
127 the city or state agency or authority issuing such violation shall also
128 serve as legal notice to the registrar that said violation has been dis-
129 posed of in accordance with law. The certified receipt shall be
130 printed in such form as the registrar of motor vehicles may approve.

131 (i) Upon the accumulation by an owner of two or more out-
132 standing notices under this act and/or Sections 20A and 20A½ of
133 Chapter 90 of the General Laws on account of violations of any
134 statute, ordinance, order, rule or regulation relating to the operation,
135 control or parking of motor vehicles in a particular city, notwith-
136 standing any notification to the registrar, the parking clerk of such
137 city may notify the chief of police or director of traffic and parking
138 of such city that the vehicle bearing the registration to which said
139 notices have been issued shall be removed and stored or otherwise
140 immobilized by a mechanical device at the expense of the registered
141 owner of such vehicle until such time as all fines, taxes and penalties
142 owed by such owner pursuant to either this section, or arising out of
143 the parking or usage of such owner's motor vehicle have been dis-
144 posed of in accordance with law. No vehicle shall be removed,
145 stored, or otherwise immobilized until and unless the owner of such
146 motor vehicle shall have received 10 days notification by mail that
147 such motor vehicle may be removed, stored, or immobilized without
148 further notification. It shall be sufficient for the parking clerk to
149 mail, postage prepaid, said notification to the last known address of
150 the registered owner. It shall be sufficient for the parking clerk, in
151 the case of a motor vehicle registered in another state or country, to
152 mail notification to the official in such state or country having
153 charge of the registration of such motor vehicle.

154 (j) Photographic and other recorded evidence obtained through
155 the use of automated enforcement devices deployed as a means of
156 promoting traffic safety authorized herein shall be destroyed within
157 1 year of final disposition of any recorded event. Said cities shall file
158 notice annually with the Secretary of State that said records have
159 been destroyed in accordance with this section.

160 (k) The administrator of the traffic control signal monitoring
161 system within any city town or political subdivision accepting this
162 act shall submit a report regarding the use and operation of the
163 traffic control signal monitoring system. The Massachusetts state
164 Department of Transportation will, within 90 days of passage of this
165 act, promulgate rules and regulations for the orderly operation and
166 standardization of this act. Rules and regulations not promulgated
167 within 90 days will then require any city town or political subdivi-
168 sion accepting this act to promulgate rules and regulations within its
169 jurisdiction.